

Meeting Minutes April 27, 2006

Town of Los Altos Hills City Council Regular Meeting

Thursday, April 27, 2006 6:00 P.M.

Town Hall Council Chambers, 26379 Fremont Road

1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Kerr called the City Council Regular Meeting to order at 6:00 p.m. in the Council Chambers at Town Hall.

Present: Mayor Breene Kerr, Mayor Pro Tem Dean Warshawsky, Councilmember Craig A. T. Jones, Councilmember Jean Mordo and Councilmember Mike O'Malley

Absent: None

Staff: Acting City Manager/Planning Director Carl Cahill, City Attorney Steve Mattas, Administrative Services Director Sarah Ragsdale, Public Works Director/City Engineer Henry Louie and City Clerk Karen Jost

MOTION SECONDED AND CARRIED: Moved by Jones, seconded by Mordo and passed unanimously to limit the length of time for public comments to two minutes.

2. APPOINTMENTS AND PRESENTATIONS

2.1 Appointment to the Open Space Committee (1 vacancy)

Council had before them an application from Robert Lefkowitz for consideration of appointment to the Open Space Committee.

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Mordo and passed unanimously to appoint Robert Lefkowitz to the Open Space Committee for a term of four years.

2.2 Appointment to the Pathways Committee (1 vacancy)

Council had before them applications from four candidates for consideration of appointment to the Pathways Committee: Carol Gottlieb, Les Earnest, Bill Silver and Wendy Wilson. Following a brief interview of each of the candidates; Bill Silver was selected by paper ballot to membership on the Pathways Committee for a term of four years.

Les Earnest distributed a memo to Council dated April 27, 2006, Subject: Paths to the future. The memo was received by the City Clerk and has been retained with the public meeting packet.

2.3 Presentation of Wildlife Survey Results – Roger Spreen, Open Space Committee (continued from 3/27/06)

Roger Spreen, Open Space Committee Chair, addressed Council. He provided a brief summary of the charter of the Committee noting that their primary goal was to advise the Council on ways to preserve the natural environment of the Town. Spreen presented a PowerPoint presentation titled “Open Space Committee Wildlife Corridor Project Status Update”. He explained that the presentation was for informational purposes and required no action by the Council.

The presentation included: the background of the project; project goals; survey methodology; response summary; basic statistics; analysis; sample opinions; frequency of wildlife sightings; survey mapping procedure; results from Live Oak Associates, project consultants; and, next steps. Spreen noted that the survey respondents had proffered interesting questions, including: How would they maintain agricultural uses of their land (vegetable gardens, etc) with wildlife corridors?” and issues of managing both large and small wildlife including rabbits, gophers, squirrels and deer.

Spreen displayed large scale maps that had been prepared for each animal (deer, coyote, bobcat, fox) and identified the frequency and location of sightings that had been reported in the returned surveys. The tracking maps had confirmed the expectations of the Committee.

Live Oak Associates, project consultants, had researched Town maps for ecological and geologic features and then utilized the survey results maps for validation of the data and created a “preliminary” wildlife corridor map. Spreen displayed the preliminary map. He offered that the map had a good skeleton pattern. He suggested that many areas identified on the preliminary wildlife corridor map may already be preserved and protected in conservation and open space easements.

Spreen summarized his report and reviewed the next steps in the process with Council. He noted that sensitive areas that had been identified would be revisited and the wildlife corridor map would be made more “analyzable”. The Committee was working with Live Oak Associates to develop the final report and map. The report would include suggestions on how to protect the prescriptive areas and guidelines that were used in similar jurisdictions. Spreen advised that the Committee would be returning to Council with the findings at a future Council meeting and seeking their direction.

Spreen thanked the Wildlife Survey Sub-Committee of Nancy Couperus, Alice Sakamoto, Jean Struthers, Sue Welch and Sandy Humphries (Environmental Design and Protection Committee).

Councilmember O'Malley, Committee Council Liaison, commented that the Committee had been pleased with the survey results and the fact that there had been clearly defined wildlife corridors identified in the findings. The data would allow the development of reasonable and specific wildlife corridors in the Town.

Mayor Pro Tem Warshawsky requested clarification on the establishment of wildlife corridors and the impact on fencing restrictions.

Spreen explained that the Committee was considering the use of existing "pathways-wildlife routes" (conservation easements, open space easements) and were seeking a balance in the protection of wildlife and the rights of property owners to use their land. He noted that wildlife corridors had been included in the new fence ordinance. Spreen concluded that the development of the map was still in the review phase and would return to Council.

Warshawsky questioned if it was not really "deer corridors" that were being established because small animals are not affected by fences. Spreen responded that deer were the majority of the large wildlife identified and he understood the need for a balance. Councilmember O'Malley explained that the property owner would not be restricted from fencing their property but would be required to leave a small opening for wildlife passage (10'). O'Malley noted that the Committee was still in the information gathering stage.

Council thanked Spreen for his presentation.

3. PLANNING COMMISSION REPORT

No Report

4. CONSENT CALENDAR

Items Removed: 4.10 (public),

Mayor Kerr abstained from consideration of payments to Toeniskoetter & Breeding included in consent calendar item 4.2 due to a potential conflict of interest.

Mayor Pro Tem Warshawsky abstained from consideration of consent calendar item 4.11 due to a potential conflict of interest.

Councilmember Jones referenced consent calendar item 4.19 and explained that the payment was for services rendered and to permit timely payment. He expected there would be additional need for legal consulting services from Ms. Leoni and the Town's City Attorney Mr. Mattas and his firm, Meyers Nave, in drafting legal documents as the negotiations to return public education to the Hills moved forward with the School Districts. Jones advised that the request for additional consulting services would be considered by Council at a future meeting.

Councilmember O'Malley acknowledged and congratulated Administrative Services Director Ragsdale and the Finance and Investment Committee for the new financial report appearing as consent calendar item 4.3.

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by O'Malley and passed unanimously to approve the remainder of the Consent Calendar with Mayor Kerr abstaining from consideration of payments to TBI included in Item 4.2 , and Mayor Pro Tem Warshawsky abstaining from consideration of Item 4.11 specifically;

- 4.1 Approval of Minutes: Regular City Council Meeting March 23, 2006
- 4.2 Review of Disbursements: 03/16/2006 – 04/18/2006 \$549,682.51
- 4.3 Financial Monthly Report
- 4.4 Quarterly Investment Report
- 4.5 Resolution in Support of Tax Equity Amendment Legislation AB117
Resolution # 26-06
- 4.6 Certificate of Correction, Tract No. 1707, Lands of Shahidi;
25349 La Rena Lane
- 4.7 Grant of Pathway Easement: Lands of Szekely; 13643 Wildcrest Drive
Resolution # 27-06
- 4.8 Grant of Open Space Easements: Lands of Szekely; 13646 Wildcrest Drive
Resolution #28-06
- 4.9 Date for Community Service Agency Grants
- 4.11 Westwind Barn Preliminary Structure and Historical Evaluation Report
prepared by Mark Thomas & Company dated March, 2006
- 4.12 Approval of Draft Resolution Supporting Formation of the Santa Clara
County Regional Employee Health Benefits Coalition and Associated
Membership Costs – Resolution # 29-09
- 4.13 Approval of Resolution in Support of Measure C – Resolution # 30-06
- 4.14 Approval of New Program: Presentation of Colors at City Council Meetings
- 4.15 Approval of 2006 Town Picnic Proposal
- 4.16 Award of Contract: Sanitary Sewer Connections at Little League Field and
Corporation Yard – Resolution # 31-06

- 4.17 Award of Contract: Geotechnical Investigation and Design Services for Proposed Guard Railing Project at Page Mill Road – Resolution #32-06
- 4.18 Authorizing and Directing the City Manager to Act on Behalf of the Town Entering into an Agreement with the VTA – Resolution# 33-06
- 4.19 Amendment to Agreement with Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP to Add \$5,000 for Additional Special Counsel Services

Item Removed:

- 4.10 Approval of Draft Resolution of Support for the Santa Clara Initiative for the Conservation and Preservation of Hillsides, Ranchlands and Agricultural Lands

Phyllis Carmichael, resident, addressed Council. She explained that she had requested separate consideration of this item because it would establish zoning restrictions that were unfair to property owners and would not create new accessible public open space. She urged the Council to continue the item to a future date and consider all of the inherent issues before offering their support.

Mary Davies, resident, Midpeninsula Regional Open Space District Board member, commented that the purpose of the initiative was to keep the agricultural hills of Santa Clara Valley “green” and unfettered by development. It was not meant to promote public accessible open space. Davies noted that the Town had always been supportive of open space and this was an appropriate initiative for the Council to endorse.

Paul Cardus, Government Affairs Director, Silicon Valley Realtors Association, addressed Council. He stated that the Association favored responsible open space but had voted to oppose the initiative noting the concern expressed by farmers, property owners, and ranchers on the affect the initiative would have on their ability to keep their family lands together. He suggested that it would be very costly to amend and correct the initiative policies once it was law.

Peter Drekmeier, Palo Alto City Council member, commented that the Palo Alto City Council had recently passed a resolution in support of the initiative. He offered that the initiative would protect view sheds, water sheds and reservoirs and prevent urban sprawl and it would encourage the continuation of large scale agricultural. Drekmeier added that similar initiatives had been passed in San Mateo County and Alameda County.

Council discussion ensued. Councilmember Jones offered that he had endorsed the initiative as an individual and believed it was moderate and reasonable and would assist in maintaining the “rural character” in Santa Clara Valley. Council concurred.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Mordo and passed unanimously to adopt Resolution # 34-06 "In Support of the Santa Clara County Initiative for the Conservation and Preservation of Hillsides, Ranchlands and Agricultural Lands"

5. UNFINISHED BUSINESS

5.1 Town Goals

5.1.1 Implementation of Strategic Conservation Goals

Considered as agenda items 11.1 and 11.2.

5.1.2 Bringing Public Education Back to the Hills

The agenda was reordered by consensus of the Council to permit discussion of this item out of agenda order.

5.1.2a Status Report on the Re-Districting Alternative Negotiations- Mayor Kerr and Councilmember Jones

Mayor Kerr introduced this item to Council. He reviewed the informational packet of materials that had been provided to Council by the Ad Hoc Council Subcommittee of Kerr and Councilmember Jones. The Mayor summarized the recent negotiation meetings and the effort to achieve an alternative to redistricting. Kerr advised Council of an email he had received from Palo Alto Unified School District representatives expressing their regret that they would be unable to attend the City Council meeting due to a previous commitment to appear in Sacramento. They expressed their support for the negotiations and explained that their absence should in no way reflect adversely on their commitment to the proposal.

Kerr provided an overview of the negotiation process. All stakeholders had been included in the negotiations. This included Superintendents from the Palo Alto Unified School District, Los Altos School District, Mountain View-Los Altos Union High School District and the Bullis Charter School. Meeting participants also included District and Charter School Board members, Councilmember Jones, Mayor Kerr and Duncan MacMillan, Public Education Committee Chair.

Kerr reviewed his letter to Superintendent Callan, Palo Alto Unified School District dated March 29, 2006 and identified key points of the solution that the Ad-Hoc Committee was seeking to achieve. They included: 1) a change in the relationship between the LASD, the Town of Los Altos Hills and the Bullis Charter School; 2) a true neighborhood public school for the Los Altos Hills community at the former Bullis-Purissima School campus with routing and predictable provisions for attendance by willing Los Altos Hills children from LASD and PAUSD; and, 3) provisions to insure

relative permanency of the solution including guarantees of at least one (1) public school within the boundaries of the community.

Kerr advised that the Ad-Hoc Subcommittee had met one on one with the stakeholders and two meetings had been convened with everyone in attendance. He reported that Councilmember Jones, as a result of the many hours of discussions, had developed a “road map” to what Kerr believed was “win-win” solution. The “road map” had been previously released to the media and had been used as a presentation to a group of concerned parents. Before Council tonight was a second generation “road map” that had been refined by Kerr and Jones and better clarified the solution. He requested Council review of the proposal and consideration of the negotiating posture that had been taken by the Ad-Hoc Subcommittee.

Councilmember Jones offered that he had separated out his opinion on the current status of the negotiations and would proffer them during discussion of agenda item 5.1.2b (consideration of forwarding Resolution 25-06 to the County) and his status report would focus on the facts and results of the extensive negotiations.

Jones presented a two slide presentation that had been developed by himself and Kerr and was their “best attempt” at providing an accounting of the negotiations and possible framework for a solution. The report had been shared with stakeholders and where appropriate, their input had been incorporated. Jones added that they were looking for a solution that was fundamental and served all residents with a degree of permanence. He offered that the central point in an acceptable resolution for the Public Education Committee was that the solution to be fair and equitable. The City Council was also seeking a community/neighborhood school in Los Altos Hills with school enrollment open to all residents.

Jones proceeded with his presentation titled “Framework for the Future of Los Altos Hills Public Elementary School Education- Term Sheet: 30-day checkup” The presentation included six (6) key points:

- 1) A public school at the Bullis-Purissima site that served all residents of Los Altos Hills, both in the PAUSD and LASD with a signed agreement for twenty plus (20+) years as a public school; longer term for specific town-funded facilities. Bullis Charter School (BCS) on site as long as it had a charter.
- 2) Bullis Charter School would be an occupant so long as it had a charter from the State of California. Bullis Charter School would have space for 380 students with option (mutual agreement) to grow to 480. The Los Altos School District (LASD) would have space for up to 100 students to support LASD programs but not a competitive K-6 program. Occupancy by December 2007.
- 3) For the first time ever, all Los Altos Hills children would have the option to attend the same K-6 school. Preference for Los Altos Hills children

who choose to attend BCS with no limit on PAUSD-LAH enrollment. Jones explained that the current BCS charter would require an amendment to allow for the geographic preference. The request for a waiver would be filed by the Santa Clara County Office of Education and if approved, granted by the State. Jones offered that this procedure had been investigated and reviewed the process with Council. LASD and PAUSD would support the State Board of Education waiver for preference. He hoped that the regional solution to the problem would assist in having the State approve the waiver. Jones reviewed the funding that BCS would receive from the Palo Alto Unified School District for PAUSD-Los Altos Hills children who attended the Bullis Charter School when the Los Altos School District was designated as a Basic Aid District. He qualified this by noting the PAUSD had stated their funding commitment publicly and it had been ratified by the Districts Board for providing the same amount of money as basic aid to basic aid inter-district transfer students (\$5,000).

- 4) New playing fields and Community center for Los Altos Hills at the Bullis site. Jones noted that the LASD would begin renovations at the site in 2006 and have proposed to raise it to the quality of other LASD elementary schools. The LASD Board has voted to refinance their earlier bond to take advantage of lower interest rates. The Board has committed to spend approximately \$10 million on facility improvements at the Bullis site. This is a phase one project. The District is seeking voter approval of a second bond measure for facility improvements that would include the Bullis site. Jones reviewed the proposal of Kerr and Jones for the Town to provide funding to enhance the Bullis site with recreation facilities, infrastructure and solar panels. This participation would help to achieve the Council's goal for additional recreational facilities (playing fields) in Town. The estimated cost of the Town's participation was \$500,000 for playing fields; energy efficiency \$250,000 and \$190,000 for infrastructure improvements. Also included in the renovation proposal was the approval of funding of the construction of new buildings on the Bullis site by the Bullis Foundation.
- 5) Bullis Charter School would receive support for a smooth transition. Currently, BCS is chartered by the Santa Clara County Office of Education. The "framework" plan called for the charter to be transferred to a LASD charter within five years of their rechartering as permitted by law. Sharing of the parcel-tax was an integral component of the remaining item (6) and the success of the solution. The Bullis site would be shared and access to the shared facilities would be managed by the BCS Superintendent and LASD Superintendent on an equitable manner. In addition, the Los Altos School District prior to January 2007, would provide additional portables for the Bullis Charter School at Egan, to support growth and the current educational programs. LASD would also provide access to the Egan multipurpose room on an as-needed and as-available basis to the BCS.

- 6) Equal funding for all Los Altos LASD public elementary students. The concept was for all students whether attending BCS or District-run public schools to receive the same amount of tax-payers funding on a per student basis. Jones noted that this was tied to the rechartering of BCS.

Jones reviewed the “next steps”. If Council supported the continuation of the negotiations, the sub-committee would seek legal support for drafting specific language for the various elements of the agreement and in parallel, the Los Altos School District would move forward with their public process that included review of the proposal by the Citizens Advisory Committee for Finance (CACF), public hearings and vote by the School Board.

Mayor Kerr reviewed the timeline for the different “stakeholders” review process. The Palo Alto Unified School District Superintendent and Board President had publicly supported the inter-district transfers (#3) and Los Altos Hills preference. He stressed that he believed it was important to resolve the issue before the school year was over to ensure that residents could attend public hearings on the issue. The Los Altos School District had indicated that their School Board would vote on the proposal and the future of the Bullis-Purissima campus at their June 5 meeting prior to the June 8 Los Altos Hills City Council meeting. Kerr offered that the Council subcommittee would continue their efforts during the intervening period and work with legal counsel to develop enforceable agreements that included: a shared use agreement with the Town, Bullis Charter School and Los Altos School District for the Bullis site; Memorandum of Understanding (MOU) between the Los Altos School District and Palo Alto Unified School District; and any additional required documents. He noted that the Bullis Charter School Board also needed to review and vote on the proposed “framework”.

Kerr explained that the Council subcommittee was seeking Council comments and approval of the framework at tonight’s meeting and once endorsed, they would return to Council on June 8, 2006 with the prepared legal documents for Council consideration. Jones noted that this time period was approximately 45 days to develop a complete set of legal agreements to be formally endorsed by all the negotiation participants respective Boards.

Councilmember Mordo queried if the framework (term sheet) presented by Jones was a “wish list” for the Town or if the Negotiators were ready to publicly voice their personal support for the outline. He noted that there had been comments in the press by LASD Board members that they were opposed to the plan. Kerr responded that the framework represented what the subcommittee (Kerr and Jones) had identified as the consensus agreements from the negotiations. He noted that it would probably take additional time for some of the components (re-chartering of the Bullis Charter School) to be completed.

Mayor Pro Tem Warshawsky suggested that it would be advantageous to the process to invite representatives from the County and State Offices of Education to participate in the discussions. He noted that they played a role in a successful resolution including the issue of geographical waivers and the re-charter of BCS.

City Attorney City Mattas explained the waiver process. The special legal counsel that the Town had retained to advise on these matters had indicated that there was an expectation of a greater success of approval of the waiver if there was a consensus (endorsement) of the affected entities. Mattas added that letters had been drafted for the Districts to, if they concurred, send to the County Office of Education to show and memorialize their support. Kerr added that the Districts representatives had reviewed the letters and responded favorably but they would require their respective Board approval.

Kerr, with the concurrence of Council, withdrew any time limits on comments from participants of the negotiations.

OPENED PUBLIC COMMENT

Mark Goines, Los Altos School District Board member and negotiations participant, stated that the District had negotiated in good faith. The preliminary plan for the Bullis campus currently being considered by the Board included: plans for sharing the site and a target opening date for the campus of December 2007. The Board had approved refunding of the parcel tax bond for construction purposes. The CACF had begun an option analysis of the framework and Goines expected their findings to be available for the Board when they consider the proposal. The Board had begun the legal investigation of the appropriate resolutions and agreements that would be required. Goines added that recent analysis by the CACF had confirmed the need for a seventh school. The District enrollment was growing and it was important for the Board to consider their long term plans and noted that all "needs" would be reviewed and evaluated by the Board. No formal vote on the framework had been taken by the District Board.

Mordo asked if Goines would note on the record that he supported the framework presented by Jones. Goines stated that it reflected his position. Mordo questioned if he believed the District Board would vote favorably on the proposal. His response was that there was a good possibility that it would be endorsed but that there were many details that needed to be resolved.

Martin Neiman, Bullis Charter School Board member and negotiations participant, thanked the Council for the time and effort they had expended in securing a solution. He noted that the BCS participants had negotiated in good faith and the framework term sheet that had been presented by Councilmember Jones reflected the consensus of the participants and principles the BCS Board could endorse. Neiman explained that the legal challenge by the Charter School regarding the appropriateness of the Egan campus for the Bullis Charter School would be moot and cease if the framework were accepted by the respective Boards.

Francis La Poll, Bullis Charter School Board member and negotiations participant, stated that the negotiating team would be recommending the term sheet to their Board and subject to input from the Board, they would be voting on the proposal.

David Pefley, Los Altos School District Board member and negotiations participant, offered that the framework accurately represented the status of the negotiations. He urged the Council to support continuation of the discussions until a solution was finalized. He believed a negotiated resolution made sense financially and would bring a resolution to the issue much sooner than a vote of the people (redistricting).

Mayor Pro Tem Warshawsky questioned if the Board would be willing to consider an amendment to their charter to include two permanent seats dedicated to the Town. Pefley noted that two seats represented 40% of the Board and he could not support the position.

Council consensus was to open the public comment to include statements on agenda items 5.1.2a and 5.1.2b.

Duncan MacMillan, Public Education Chair, reported that the committee had voted unanimously (8-0) at their April 18, 2006 meeting to reaffirm their support for the redistricting resolution as their primary recommendation but if negotiations were to continue, they could support the settlement if certain attributes were met. The PEC statement with the recommended elements was included in the Council packet. MacMillan noted that the Committee had not had an opportunity to review and vote on the framework that had been presented by Councilmember Jones at tonight's meeting. His personal assessment of the presentation was that there was not an agreement from the Palo Alto Unified School District for a permanent solution and that their latest comments suggested they would only agree to a MOU and a funding level of \$5,000.

Henry Wong, resident, Palo Alto Unified School District, congratulated the negotiators on their efforts and offered his opinion that the term sheet addressed the main issues. He encouraged the Council to move forward with the discussions and to not pursue redistricting. He believed it would deter the negotiation process. Wong questioned the inclusion of additional funds from LAH in the framework for the Bullis site.

Councilmember Jones explained that Town funds for the capital improvements at Bullis would provide additional recreational facilities for Town residents and energy efficiency at the site. They would be additional improvements beyond what the Los Altos School District would customarily provide for their schools. Kerr added that the proposed enhancements to the facility would be for public use and would follow the guidelines for public buildings in the community.

Chris Vargas, Templeton Place, stated that a negotiated settlement must include six key elements: 1) Bullis Charter School located at the Bullis-Purissima site; 2) no cap on Bullis Charter School enrollment; 3) Fall '06 move in date -Vargas suggested that if this was not met, BCS be permitted to use the Bullis site for labs and environmental space; 4) parcel tax dollars; 5) Los Altos Hills preference for enrollment; and, 6) County Charter for the Bullis Charter School for the next five years unless by mutual agreement it was determined that a LASD Charter was preferable. Vargas suggested the following points also be considered: guarantee of a Los Altos School District Board member position for a Los Altos Hills representative that could be non-voting; inclusion of the Orange Avenue (Los Altos) residents, former Bullis enrollment boundary in the preference for

enrollment; and a priority for all families currently enrolled at the Charter School included with the Los Altos Hills resident preference. Vargas suggested that the framework was a baseline and more should be added and he would only be supportive of the additional 45 days if the baseline was confirmed and additional elements added during the discussions.

Eric Clow, Central Drive, suggested that it was an incorrect assumption that it was a choice between redistricting and the term sheet. He believed the redistricting discussions were a key reason that the Districts were motivated to resolve the issue. Clow favored moving forward with the redistricting process in parallel with the negotiations. He requested that Kerr and Jones consider recusing themselves from the vote on forwarding the redistricting resolution to the County due to their previously voiced support for delaying the resolution.

Barry Smith, Estacada Drive, thanked the Council for their efforts. He suggested that the proposal that had been made was not for a public school similar to what had existed at the Bullis site but the proposal would bring the Bullis Charter School to the campus.

Joan Schlenz, Paseo del Roble, applauded Mayor Kerr and Councilmembers Jones and O'Malley for their vote to delay redistricting for a month. She commented that they had used the month very well.

Nancy Kelem, Esperanza Road, noted that as a BCS parent she was pleased but that the issue of the school district enrollment boundary line that divided the Town had not been resolved. She suggested that efforts should be directed towards a three school solution for the Town.

Peter Evans, La Loma, suggested that it was important that all elements of the framework to be included in the solution for it to be acceptable. He was concerned that a shared site at Bullis might not support the potential enrollment and requested that Council consider including as part of the agreement that the Pinewood site, when its lease was up if there was a need for additional facility space be made available to the Town. He added that it was reasonable for the funding for those students that attended Bullis Charter to be equal.

Bart Carey, Deerfield Drive, thanked the Council for their efforts. He recalled Council's previous commitment that if there was not a signed term sheet in thirty days, the resolution would be submitted to the County. He suggested that it was important for the Council to submit the resolution now as they had previously proposed or the School District and public could question the value of an extension. Carey suggested that the Council proceed with the redistricting process in parallel with the negotiations.

Mayor Kerr requested Council consensus to release the confidential memo on redistricting that had been provided to Council by the City Attorney. Councilmember Mordo did not favor the memo's release, offering that it was not relevant to the discussions.

Jim Abraham, Los Altos Hills resident, Palo Alto Unified School District, reported that he had attended the recent meeting organized by PAUSD for interested Town residents. The majority of those in attendance did not favor redistricting. He offered kudos to Mayor Kerr and Councilmember Jones and noted his opposition to forwarding the redistricting resolution to the County.

Larry Russell, Los Altos Hills resident, expressed his opposition to redistricting. He applauded the progress that had been made by the negotiating team and explained that he did not want to see artificial deadlines imposed on the discussions and encouraged the Council to delay sending the resolution to the County.

Milt McCall, W. Sunset, explained that he was pleased with the education program at Covington School and in the upper grades. He suggested that the redistricting proposal was a radical solution and encouraged the Council to delay forwarding the resolution and continue the discussions. McCall believed there were many residents in Town that favored more moderate efforts for a negotiated agreement.

Fred Gallagher, resident, commented that he believed redistricting was the best solution for the Town. The Council had agreed to a thirty day delay in delivering the resolution in favor of a signed term sheet. This had not come to fruition. He wanted a solution that worked not promises. Gallagher suggested that Council reflect on what had brought them to the point of considering the redistricting option and offered that any additional delays could be divisive.

Marlin Miller, Bullis Charter School parent, resident, supported granting additional time to the District to review the term sheet and respond but he favored moving forward with redistricting in parallel. He hoped the District clearly understood the Town's resolve to return public education to the Hills. Miller relayed his attendance at the recent meeting called by the "Citizens Against Redistricting". He noted the many senior citizens support redistricting and felt betrayed by the actions of the Districts. All schools in Town have been closed and over 40% of the children in Los Altos Hills now attend private schools.

Linda Swan, Burke Road, noted that the School Districts had been given an opportunity over the thirty day period to sign an agreement but to date the Town only had a "maybe". She noted that there was no guarantee that a geographic waiver would be granted by the State and suggested that any agreement could be rescinded by a new school district board. She favored Council moving forward with the redistricting process and securing schools for the residents now.

Jill Jensen, Purissima Road, questioned what would happen to the all-day kindergarten at Bullis. She offered that she would believe that the solution was a reality when construction on the Bullis campus was underway and the kindergarteners had been relocated. Jensen commented that the residents of the Town provide the District with money, test scores and volunteers and now it was time for the Town to take command of public education and have control over their own destiny.

Allan Epstein, Ravensbury Avenue, applauded Mayor Kerr and Councilmember Jones for their efforts with the negotiations. He commented that not all Town residents would benefit from returning a school to the Bullis-Purissima site. Epstein viewed Town residents in the Palo Alto Unified School District enrollment area and those in the southern portion of Town as collateral damage in the redistricting process. He encouraged Council to postpone their decision on the resolution and continue the negotiations.

Mark Goines, LASD Board member, commented that he believed redistricting would put a strain on the negotiations. Time and money would have to be spent to work on redistricting.. He suggested that a negotiated settlement was the fastest way to reopen a school in Los Altos Hills.

John Radford, La Paloma Road, commented that he believed that the term sheet before Council was good but the question was how the Council would achieve it. He hoped that it could be resolved quickly. Radford suggested that the term sheet merited an additional 30-45 days of discussions and offered that if that was not successful, the redistricting process could be resumed with the understanding that every other solution had been pursued.

Jitze Couperus, Page Mill Road, thanked the negotiators. He questioned what collateral had been offered in the terms of the framework if the agreements were negated at any time.

Steve Hubbell, Public Education Committee, stated that the Committee had developed a matrix of options to returning public education to the Town. All of the options had been reviewed and most had been rejected because they were temporary. He believed that a signed agreement for twenty years would result in similar discussions in twenty years and suggested that it was irresponsible to not proceed with the redistricting and gain autonomy for the Town.

Sheri Emling, resident, spoke to the history of the School Board and their comments that they were new and could be trusted and then they closed all of the schools in Town. She no longer trusted the School Boards and encouraged the Council to move forward with redistricting in parallel with the negotiations.

John Ryan, Orchard Hill Lane, thanked the City Council for their efforts in the negotiation process and suggested that many residents were looking for a compromise and wanted the opportunity to remain in their respective Districts.

Kathleen Justice-Moore, Jabil Lane, south Los Altos Hills, spoke to the Public Education Committee's recommendation regarding the negotiated settlement. She reviewed the PEC elements that included: the requirement for a permanent solution for the entire Town and local control. Justice-Moore noted that the current term sheet did not reflect the recommendations of the Committee.

Alexander Atkins, Orchard Hill Lane, stated that the term sheet that had been presented should be considered a baseline and nothing should be taken away. He would like to see

an analysis of what the Town would garner with redistricting and he suggested that the missing element in the term sheet was “control”. He suggested a mediation group be included in the agreement composed of equal representatives from Los Altos Hills and the District. Atkins suggested that there was no protection from a hostile District Board. He believed that one advantage of redistricting would be reform and suggested that the Town request a construction audit of the recent LASD parcel tax bond to see where the money went.

John Swan, Public Education Committee member, questioned what if fifty years ago when the Town was incorporating they had been presented a term sheet? He offered that now was the time to remove the school boundary line that divided the Town.

Resident, Ascension Drive, spoke in favor of moving forward with re-districting and submitting the resolution to the County. He believed this was the only long term solution to the issue and suggested that it benefited the Town as a whole. He noted the difficulty in regaining school lands once they were closed and believed they were important assets that the Town needed to retain.

Kathy Evans, La Loma Drive, Public Education Committee, stated that the term sheet was not an acceptable solution. She suggested that there was no effective school board representation for Los Altos Hills included in the agreement. Evans queried if the Town wanted a community defined by the residents of Los Altos or the Palo Alto Unified School District. She noted the Town Founders belief in self determination and the importance to adhere to that principle. Evans supported a Los Altos Hills school district that would serve the residents and the Town as a whole. She urged the Council to begin the process of redistricting and remove the school boundary line that divided the Town.

CLOSED PUBLIC COMMENT

Council discussion ensued. Councilmember Mordo commented that the term sheet was not an enforceable agreement and secured nothing for the Town. He noted that the terms were only as good as the current respective School Boards and could be rescinded by future Boards. Mordo offered that redistricting was the only way to permanently correct the inequity that currently exists in Los Altos Hills, a municipality with a population of 8,000 residents and no public school. He believed the term sheet only addressed a resolution for the geographic middle of the Town, not the Town as a whole. Mordo noted that there was no guarantee that the redistricting effort would succeed, but he believed that there was nothing to lose because the Los Altos School District would eventually have to reopen another school at Bullis. He favored submitting the resolution to the County Office of Education and allowing the redistricting process to move forward to the ultimate conclusion, a vote of the residents. He did not support continuation of the negotiations.

Mayor Pro Tem Warshawsky explained that there were two aspects to the issue before Council: 1) the framework/term sheet Councilmember Jones had presented; and, 2) the redistricting resolution. He spoke to his experiences with the CPR process and the numerous meetings and his high expectations and optimism that an amenable solution

could be reached and the reality, that after all the efforts, nothing was resolved. He noted the uncertainty that the term sheet and negotiations could come to fruition in a year. Warshawsky expressed his belief in the democratic process and his support for letting the voters decide the issue at an election noting that education was one of the most critical, important components of a community. He favored moving the resolution forward to the County to begin the redistricting process.

Mayor Kerr commented that putting the issue before the people on the ballot was appropriate and noble but a difficult process. He offered that the Town had been working towards a resolution to the issue with one school district but redistricting would involve school districts at the state level. Kerr spoke to the other major issues that he had been willing to take on including the TEA efforts that required special state legislation, but he believed redistricting was a challenge with major hurdles and impediments that would be very difficult to get the vote before the people. Kerr suggested that the ballot vote was potentially years away. He favored working towards negotiated terms that he believed had a better chance of success and also could provide permanence.

Council discussion ensued regarding the issue of a guarantee of permanency of a school at Bullis. Councilmember Mordo questioned if it was feasible to have an agreement with the School District with a twenty year commitment to have a school at Bullis. Councilmember Jones explained that a legal agreement could be binding and used the Pinewood lease with the Palo Alto Unified School District as an example. Mordo suggested that the permanence was questionable and eminent domain could be broached by one of the entities. Jones commented that eminent domain between two public agencies was a very difficult area of the law.

Councilmember O'Malley spoke to the most recent election for Los Altos Hills Council seats where the candidates all supported the return of a school to the Bullis site but did not support redistricting. He suggested that the negotiated terms meet that goal and offered more than the current status of education in Los Altos Hills. It found a home for the Charter School at Bullis and returned public education to the Town and provided a school with a preference for the Town children. O'Malley supported moving forward with the negotiations with the caveat that there would be an agreement with the Los Altos School District with the negotiated terms by June 5, 2006. If there was no agreement in place by June 5, O'Malley would agree to forward the redistricting resolution forward to the County.

Councilmember Jones offered his opinion that the negotiated term sheet offered a much better situation for the Town than what existed prior to the closure of Bullis. Residents would have a preference to attend a school of choice. He spoke to the successes of the Charter school and its innovative model of education. Jones noted that the term sheet preserved existing schools and included them in the residents' choice for education. He explained that the Los Altos School District now had a clear understanding of the Town's need for a community school and it was important to complete the negotiations that had been conducted in an environment of good will. Jones added that if the redistricting were attempted and failed, residents would not be guaranteed admittance to a LASD school at the Bullis site including the residents in the PAUSD limits

Jones offered there were several basic reasons he believed the negotiations would succeed. The term sheet was in the best interest of his constituents because it preserves education choices and renovates the Bullis site for a true community school. The Los Altos School District would endorse the terms because it was in their best interest. It would save them money by negating the need for an eight elementary school and find a home for the Bullis Charter School. Jones noted that several Board members had stated their support for the negotiated solution on the record. Jones explained that there would be legal agreements that implemented the solution and noted the importance of “trust but verify” stance. He committed his support to filing for redistricting and leading the campaign for redistricting if there was no agreement in forty five days. He encouraged the audience to constructively work to assist the negotiations to succeed and to contact the Board members, campaign for their support, and to choose statesmanship over confrontation. Jones favored postponing the submittal of the resolution for forty five days citing the possibility it would delay the reconstruction of the Bullis campus and side track the negotiations.

City Attorney Steve Mattas reviewed the issues before Council and explained that Council action could include the following: 1) Council could entertain a motion to indicate their support for the continuing efforts of the negotiating subcommittee and the term sheet presented; and, 2) provide direction to the staff regarding transmittal of resolution 25-06 to the County

MOTION SECONDED AND CARRIED: Moved by Jones, seconded by O’Malley and passed by the following roll call vote to direct the staff to delay submission of Resolution 25-06 to the County until after the June 8, 2006 City Council meeting and to direct the negotiating team to continue with the negotiations consistent with the term sheet presented in the two slide PowerPoint presentation by Councilmember Jones and to authorize the use of legal counsel to draft specific support agreements consistent with the term sheet.

AYES: Mayor Kerr, Councilmember Jones, and Councilmember O’Malley
NOES: Mayor Pro Tem Warshawsky and Councilmember Mordo
ABSENT: None
ABSTAIN: None

COUNCIL MEETING RECESSED AT 10:40 p.m.
COUNCIL MEETING RECONVENED AT 10:50 p.m.

5.1.2b Discussion of Submittal of Resolution No. 25-06 to the County Committee

Council considered agenda item 5.1.2a and 2.1.2b in parallel.

5.2 Underground Project Status Report

Continued to May 11, 2006 City Council meeting.

5.3 Update on General Plan Review

Continued to May 11, 2006 City Council meeting.

5.4 Status of Town Pathways Projects

Continued to May 11, 2006 City Council meeting.

5.5 Discussion of Sewer Connection Fee Credits (continued from 3/23/06)

Public Works Director/City Engineer Henry Louie explained that the item before Council was in response to a concern that had been expressed by a resident regarding sewer connection fee credits. Louie reviewed the pertinent Municipal Code section with Council: Section 6-4.435 (c) states "the Town shall credit applicants with the capacity previously paid for and purchased for the property. If documentation is not available regarding the purchased capacity, the Town shall determine the likely purchased capacity. No other credit shall be granted."

OPENED PUBLIC COMMENT

Betty Kerns, Francemont, explained that she was concerned that the Town was not charging the appropriate fee for sewer capacity rights. She had heard that they were being given for free but has since learned that the fee being assessed was \$8,000 and she felt this was suitable if Council was in concurrence with the rate.

Allan Epstein, Ravensbury Avenue, stated that he believed people should get credit for any previous fees paid. He did not believe there was any justification for the current assessment fee of \$8,000.

CLOSED PUBLIC COMMENT

Council discussion ensued. Council reviewed the option of giving credit for any fees paid to the City of Los Altos for a capacity right. There was a Council concurrence that a credit would be appropriate.

Staff was directed to review the connection fee and to return to the City Council with a recommendation for the fee schedule and credits. It was suggested that staff look at the Los Altos history of fees collected data to determine an amenable credit.

5.6 Update on 25 Interim Sewer Connections

Public Works Director/City Engineer Henry Louie reported that seven applications requesting interim sewer connections had been received by the Town. Five applications have been approved. Louie noted that he had received inquiries from residents regarding the available connections but the residents had voiced their preference to wait for the new sewer agreement. He expected the agreement to be finalized in September or October.

5.7 Town-Wide Tree Survey Report and Findings

Continued to May 11, 2006 City Council meeting.

6. NEW BUSINESS

6.1 Consideration of Request by the Friends of Westwind for Proposed Repairs and Improvements for 2006

Mayor Pro Tem Warshawsky and Councilmember O'Malley recused themselves from consideration of the agenda item due to potential conflicts of interest and stepped down from the dais.

Acting City Manager Carl Cahill reviewed the request from the Friends of Westwind for certain repairs, maintenance costs and improvements that had been submitted to the Town in a letter dated March 31, 2006. Cahill commented that staff was recommending payment for specified maintenance items and repairs not to exceed \$33,250 identified in the staff report and to defer the alterations to Westwind Barn until a Master Plan had been adopted by the Council. The balance of the approved 2005-2006 budget for the Barn was approximately \$30,000.

Councilmember Jones, as a related issue, updated Council on the discussions with Friends of Westwind regarding the governance issue. Jones had been approached by the Friends to re-open discussions of a renegotiated agreement and a meeting had been scheduled. He expressed his reluctance to spend any funds until the governance issue was resolved and the Master Plan for the facility completed.

Council discussion ensued. Cahill reviewed the specifics of the request. Mordo suggested that it might be more appropriate to include the repairs in a major renovation with a well defined overall plan and after there was a resolution to the governance question. Cahill recommended that Council consider approval of the health and safety repairs as a minimum that included: general electrical upgrades, bathroom model, and laundry room vent and paint interior. He explained that staff was not recommending improvements for a second staff living quarter until the seismic retrofit issues identified in the Westwind Barn Preliminary Structure report prepared by engineering consultants Mark Thomas were addressed.

OPENED PUBLIC COMMENT

Therese Kollerer, Treasurer, Friends of Westwind Board, addressed Council. She encouraged the Council to approve the installation of a new window in the staff quarters. Kollerer offered that this would add to the quality of life of the Barn's staff and be an improvement in the living area.

CLOSED PUBLIC COMMENT

MOTION SECONDED AND CARRIED: Moved by Jones, seconded by Mordo and passed unanimously to authorize an expenditure of \$17, 250 for the health and safety repairs and improvements as identified by staff. The items included: electrical upgrades; bathroom remodel and new vent and paint to the laundry room.

6.2 Proposed Ordinance Change for False Alarm Rating Period

Motion to Waive Reading

Motion to Introduce the Ordinance

Continued to May 11, 2006 City Council meeting.

6.3 Consideration of City Council Meeting Schedule and Set Meeting Date for AB1234 Ethics Training

PASSED BY CONSENSUS OF THE COUNCIL: To cancel the Regular City Council meeting of May 25, 2006 and to schedule a Special Meeting on that date to include: 1) mandatory AB1234 ethics training for the City Council and Planning Commission; 2) a consent calendar and any additional agenda items deemed necessary by the Mayor. Council directed the staff to extend invitations to all Standing Committee members for the training.

7. REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

7.1 Presentation on Charter Cities – Jim Lai, Finance and Investment Committee

Continued to May 11, 2006 City Council meeting.

7.2 Progress Report on City Manager Search – Councilmember Jones

Continued to May 11, 2006 City Council meeting.

8. STAFF REPORTS

8.1 City Manager

8.2 City Attorney

8.3 City Clerk

8.3.1 Report on Council Correspondence

9. COUNCIL-INITIATED ITEMS

No Report.

10. PRESENTATIONS FROM THE FLOOR

Linda Swan, resident, Bullis Charter School parent, invited Council and the public to attend a co-production of Pirates of Penzance, being performed by the Bullis Charter School and San Francisco Opera Guild on April 30, 2006 at Foothill College. Residents of Los Altos Hills were eligible for four free tickets.

Chris Vargas, Templeton Place, reported on the first Los Altos Hills Pathways Earth Day Clean-up Event. The program had been divided into a two day event with the Bullis Charter School students picking up litter on the first day and citizens participating on Saturday. They had succeeded in collecting over 900 pounds of trash. The event had been deemed successful and would be scheduled annually.

Toni Casey, Ravensbury Avenue, queried if the residents of Los Altos Hills had been asked if they wanted wildlife corridors. She offered that the Mountain Lion had not been included in the survey and suggested that it was critical to return the deer to their more natural habitat of the Open Space areas (Mid-Pen). Casey believed it was important for residents to be able to fence their properties to protect their pets and children from the wildlife that could be dangerous and carried disease. She suggested that Council notify residents by postcard when they scheduled the wildlife corridor map for their consideration of adoption.

11. PUBLIC HEARINGS

11.1 Introduction of an Ordinance to Amend Title 8 Building Regulations to Include Energy Efficiency Standards for New Single Family Homes

Acting City Manager Carl Cahill introduced this item to Council. He provided an overview of his staff report and noted that the proposed ordinance before them had been developed by the Town's Energy Initiatives Committee and required new single family homes to be 15% more energy efficient than the State's Title 24 Standards for residential buildings. Council had previously adopted a no-fee permit schedule for solar energy systems and had approved development area exemptions for property owners proposing to install freestanding photovoltaic panel arrays, all in an effort to encourage residents to reduce overall residential energy consumption and power their homes with photovoltaic solar energy systems.

CSG Consultants, consultants to the Town's Building and Planning departments, had reviewed estimates of specific construction cost impacts of the new ordinance on a 6,000 and 8,000 square foot dwelling and the payback periods and their findings, included in the staff report, identified the estimated cost at \$2.00 per square feet. CSG had determined that proposal was cost effective.

Cahill noted that Council had before them on the dais a revised copy of the ordinance with the amendments highlighted and a "clean" copy of the ordinance that incorporated the recommended changes. The revisions had been made to provide a safety value. Cahill reviewed Section 8.1.73 "Exceptions" with Council and explained that the Building Official would have the power to grant the exceptions where it was deemed that enforcement of the more stringent locally adopted energy efficiency standard would

result in unnecessary hardships. Examples offered by Cahill included a heavily shaded lot or unusual architectural design of a home.

An additional revision was the removal of a reference to the solar panel credit bonus because the ordinance providing the bonus had not yet been approved.

Peter Evans, Environmental Initiatives Committee Chair, addressed Council. He offered that he had been queried if the residents of Los Altos Hills used more energy than other municipalities and the Committee had found that residential energy use was twice the normal use of a Santa Clara Valley home. Evans explained that the Committee had performed extensive due diligence during the research and development of the proposed ordinance. They had sought the review of four energy consultants who had found that the proposed more stringent energy requirement was a feasible goal that would not impose an undue hardship in meeting the proposed standard. The Committee had established 15% as the baseline because it was the State's Energy Star Certified rating and was a proven attainable goal. Evans spoke to the "Exceptions" clause that had been described by Cahill noting that it would allow for differing architectural designs that might not be able to meet the new standards and building sites with unusual obstacles. Evans offered that it was important for the Town to lead by example on the critical issue of energy use and noted that the Town would be the first in the state with an ordinance that required a performance standard equal to the Energy Star Certified Home rating.

Council discussion ensued regarding the solar energy credit ordinance. Cahill noted that it was currently under review and would be approximately two months before the proposal was considered by Council. Evans noted that the Committee believed the MDA incentive for photovoltaics was an important component of the new energy requirements. He added that the Committee was in concurrence that the requirements only be applied to new homes and not remodels. Cahill added that secondary dwellings would also be exempt noting their importance to the Town's fulfilling their affordable housing requirements.

OPENED PUBLIC HEARING

Dot Schriener, Saddle Mountain Court, commented that the ordinance was very complicated. She expressed her concern with granting additional MDA as an incentive for the use of solar panels. Schriener suggested that such an exemption/bonus would require an Environmental Review and questioned if the visual impact had been considered.

Toni Casey, Ravensbury Avenue, questioned if the proposed ordinance applied to remodels. She suggested that if the ordinance was only applicable to new residences it was an unfair burden on future new home builders who were not being afforded an opportunity to speak. She questioned who had requested an energy efficiency ordinance with a standard higher than state and federal requirements and if it had been proposed by residents of the Town. Casey suggested that Council consider postponing the ordinance until all issues could be resolved.

Betty Kerns, resident, commented that she had just completed building a new home and shared her experiences with meeting Title 24 requirements. She suggested that the proposed ordinance could potentially be more difficult for single story homes to achieve and suggested that if the property were restricted to a single story home, the 15% improved standard not apply.

Allan Epstein, Ravensbury Avenue, opposed the ordinance citing it as unfair and inequitable.

Frank Lloyd, Brendel Drive, questioned if secondary units would be required to meet the new energy standards. He noted that one reason for the Town's high energy use average could be the fact that second units are served by a single meter with the primary residence for the property.

CLOSED PUBLIC HEARING

Councilmember Jones commented that he viewed the energy efficiency efforts as a package that included the new 15% standard and an incentive ordinance. He suggested that Council consider revisiting the ordinance before them when the solar component incentive was available and they could be reviewed as an integrated package. Jones stated that the solar component was the fail safe mechanism for the requirement.

Mayor Kerr supported the ordinance and offered that adoption would provide leadership on the issue of energy conservation on a local level for a critical issue that impacts the country and world.

Councilmember O'Malley supported the ordinance noting that it would not put an undue burden on someone building a large home. He believed it was a reasonable requirement and would help to set an example for energy conservation.

Councilmember Mordo explained that he was a bit uncomfortable with a small Town trying to solve the country's energy problems. He concurred that adoption of the ordinance was the right thing to do and was cost effective but noted the Town was small and questioned if it was their place.

Mayor Pro Tem Warshawsky offered that the Council had been discussing energy conservation for a long time and it had been an integral part in the building of the new Town Hall. Many iterations of the proposed ordinance had been previously debated by Council. He believed the "Exemptions" clause would help to address any difficulties that residents might have in achieving the 15% standard. He concurred with Mordo that it was important for the Council to do what was right for the Town and not try to solve the world's issues. Warshawsky suggested that caution be taken in moving forward to include remodels and other applications and proposed that the new requirements be monitored for a year to judge their effects. He preferred more emphasis be placed on energy consumption education. Warshawsky expressed his support for the solar incentive ordinance being adopted with the new energy standards ordinance as a "package" and would support delaying the ordinance if Council concurred.

Council discussion ensued regarding postponing the introduction of the ordinance. Cahill explained that the effective date of the proposed ordinance could be amended to July. This would provide time for review of the ordinance by the California Energy Commission in parallel with the environmental review of the solar credit ordinance. Cahill expected the solar credit ordinance to be forwarded to Council in late June or early July for their consideration.

Councilmember Jones expressed his support for the ordinance and offered his opinion that energy conservation was an important issue for all levels of government. He noted that it was his expectation that Council have before them within sixty days the solar incentive ordinance that would grant 500 feet of MDA for solar use. He viewed this as an integral part of the energy ordinance package.

Cahill reviewed the environmental documents required for the solar credit ordinance and the review by the Planning Commission. He suggested that the ordinance would most likely be in front of Council in early July.

MOTION SECONDED AND CARRIED: Moved by Jones, seconded by O'Malley and passed unanimously to waive reading and introduce the ordinance adopting energy efficiency standards for all new primary dwellings and secondary dwellings [where proposed as part of a new primary dwelling] with an effective date of July 31, 2006. (For purposes of the record, Council approved the revised ordinance presented to them on the dais).

Mayor Kerr responded to several public comments made from the Floor. He offered that many new homes are built by developers and the Environmental Initiatives Committee had taken into consideration the interests of the future occupants when developing the ordinance. The ordinance would help to ensure that new homes were energy efficient. Kerr added that the Town leads by example in important issues of open space and environmental issues for the greater good.

11.2 Amendments to the Zoning Development and Site Development Codes with
Regard to Photovoltaic Power and Solar Thermal Energy Generation
Facilities (Sections 10-1.226, 10-1.239, 10-1.247, 10-702, and
10.2.301(CEQA review: exempt pursuant to Section 15061(b)(3))

Mayor Kerr recused himself from consideration of this item noting his involvement with the solar industry and stepped down from the dais. He explained that he had sought an opinion from the Fair Political Practices Commission and was waiting for their ruling.

Acting City Manager Cahill introduced this item to Council. He reviewed the Photovoltaic (PV) Power Incentives that had been approved by the Council to date that included: free building permits for PV System installation and PV credit to achieve compliance with the Town's Energy Efficiency Standard that was included in the ordinance previously considered by Council as agenda item 11.1. Cahill explained that the ordinance they were now considering would grant development area exemption for

freestanding solar panel arrays up to 500 square feet. A development area bonus up to 500 square feet (1:1 for each square foot of solar panel installed) and referenced in the earlier discussions as the solar incentive ordinance was pending Planning Commission review.

Cahill noted that the ordinance also provided for administrative approval of solar systems up to 900 square feet in size. He reported that the Planning Commission had recently approved development area exemptions for solar systems in excess of 500 feet. The approvals were subject to a public hearing before the Planning Commission and notification of neighbors within 500 feet. Cahill noted that the main concern with larger solar systems was the aesthetic impact and the conditions of approval placed on the projects would offer a variety of different means to mitigate aesthetic concerns.

OPENED PUBLIC HEARING

John Swan, resident, suggested that Council postpone discussion of the ordinance and move to agenda item 5.1.2a.

Peter Evans, Environmental Initiatives Committee Chair, commented that most new homes would require the installation of 1,000 to 2,000 square foot solar systems to meet their energy needs. Builders had suggested they would like the option to put a portion of the system on ground mounts because they were more efficient and roof lines often did not accommodate the required larger systems. When a lot is restricted by the lack of useable MDA, it necessitates an exemption for the solar structure.

Betty Kerns, Francemont, queried why solar thermal usage was not included in the energy ordinance. She suggested that it was more cost effective and efficient.

Marc Ferrari, Old Snakey Road, commented that he was pleased that the exemption was being considered. He believed that homeowners would be more willing to install solar with the exemption.

CLOSED PUBLIC HEARING

Councilmember Jones offered that the proposed ordinance would “codify” the existing practice in Town to exempt solar arrays from being included in the development area calculations. He suggested that encouraging roof top mounted systems would be the more aesthetic choice for systems and the ordinance that would be before Council in July would address that with the development area incentive.

Councilmember Mordo questioned if an environmental impact study would be appropriate due to the possibility that numerous homes might take advantage of the exemption for solar arrays and it could potentially reach a point where the impact was substantial.

Acting City Manager Cahill responded that with the current rate that permits were being issued, it would be ten to twenty years before it was an issue. He noted that in reviewing

the ordinance and possible impacts, drainage issues and aesthetics were considered. Cahill explained that the solar arrays were free standing on a pole and did not create an impervious surface that would create drainage problems. The aesthetic issue had been resolved by requiring a public hearing and noticing of the neighbors for larger systems.

Mayor Pro Tem Warshawsky questioned how the visual impact was being addressed and what assurances were being given to neighbors next to a solar project. Cahill explained that all solar array installations were subject to setback restrictions. For systems over 900 square feet, a public hearing before the Planning Commission with the appropriate noticing of neighbors was required. The Planning Commission would take into consideration input from the neighbors and the conditions of approval would include measures to mitigate the visual impact of the system. Cahill believed safeguards were in place.

MOTION SECONDED AND CARRIED: Moved by Jones, seconded by O'Malley and passed unanimously to waive reading and introduce the ordinance amending sections 10-1.226, 10-1.239, 10-2.247, 10-1.702, 10-1.502 and 10-2.301 of the Municipal Code with regard to Photovoltaic Power and Solar Thermal energy generation facilities. (Mayor Kerr abstained from consideration of this item)

Council did not convene the Closed Session.

12. CLOSED SESSION

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(c)

Initiation of Litigation: One Case

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(b)

Significant Exposure to Litigation: One Case

13. ADJOURNMENT

The March 27, 2006 Regular City Council Meeting was adjourned by consensus of the City Council at 11:35 p.m.

Respectfully submitted,

Karen Jost
City Clerk

The minutes of the March 27, 2006 Regular City Council meeting were approved as presented at the May 11, 2006 Regular City Council meeting.